

PLANNING COMMISSION MINUTES OF APRIL 24, 2006**2004-0167 – City of Sunnyvale – Study Issue - Zoning Tools to Encourage the Development of Ownership Housing JM**

Jamie McLeod, Associate Planner, presented the staff report. She said staff is recommending 15 of the 45 potential options for encouraging homeownership. Ms. McLeod said staff is encouraging the removal of obstacles for condominium conversion while maintaining a stock of rental housing and maintaining tenant and buyer protection measures. She said staff is not recommending items that were identified by the Planning Commission as not being desirable to change, including landscaping and open space requirements. She said the recommendation has three main components: recommended policy; user friendly tools to make the condominium conversion process easier to understand; and an Ordinance to amend Title 19 of the Municipal Code.

Comm. Babcock commented that this was a complex report. She referred to page 35 and the phrase “(consistent with 1.d. above)” and said she could not find 1.d. Staff said they would look into it and reply during tonight’s meeting. She referred to page 35, 1.C.vii. regarding lockable storage in the garage and asked what the average space that two cars parked beside each other would take. Ms. McLeod said the minimum dimensions for a two-car garage are 17 feet wide by 18 feet deep. Comm. Babcock and staff further discussed size and possible usage of garage space. Comm. Babcock referred to tandem parking on page 35, 1.C.viii regarding single-family homes and townhome development “located within 1/3 mile of a major transit stop.” She asked for a clear definition of a “major transit stop.” Ms. McLeod referred to the Transportation Demand Management techniques (TDM) and said that the staff report does not define major transit stop as the definition in the TDM can change and then the report would be inconsistent with the TDM. Comm. Babcock and staff further discussed the definition including that the volume of ridership served is a key factor. Comm. Babcock and staff further discussed questions regarding tandem parking and page 19, “n” allowing reduced density for townhomes. **Trudi Ryan**, Planning Officer, referred back to Comm. Babcock’s first question regarding “1.d.” Ms. Ryan said the references to 1.d should actually refer to “C. iv.” in the Alternatives section, page 35. Comm. Babcock and Ms. Ryan further discussed the recommended height limit of 35 feet for townhouse development in an R-3 zoning district.

Comm. Simons commented and confirmed with staff that ownership opportunity developments cannot stop a development from becoming a rental development. He said a lot of the benefits to be given to “for sale” housing still does not prevent projects from changing to a different ownership type. Ms. McLeod said staff was very conscious with this study that decisions or zoning opportunities or

restrictions could not be based on ownership type. She said staff instead looked at types of housing and tried to target types of development that had a higher propensity to being owner occupied. Comm. Simons and staff further discussed questions: regarding page 35, Alternative 1.C.vi regarding eliminating porches from the calculation of Floor Area Ratio; and the purpose of this study issue. Comm. Simons and staff discussed discouraging home owners from leasing homes, Homeowner Associations (HOAs) and leasing, and that the City cannot require or encourage HOAs to limit the amount of percentage of rentals. HOAs can have their own rules regarding rentals. Comm. Simons expressed some frustration that this study could not offer more benefits or "carrots" to encourage moving in certain directions regarding development of homeownership. Ms. Ryan said staff had many conversations regarding benefits and concluded that it was not appropriate for the City to require or encourage certain actions.

Comm. Klein asked staff about actual numbers of rental and homeownership units. Ms. McLeod referred to page 10 of the report and said ownership opportunity is currently 53.6% and that 47.6% are actually occupied by the homeowners. Comm. Klein asked how secondary living units feed into this number. Ms. Ryan said there are only a low number of secondary units, in the hundreds. She said the secondary units would not be considered an ownership opportunity. Comm. Klein asked what the vacancy rate trend has been over the past few years. Ms. McLeod said if the vacancy rate of rental units drops below 3% then the code does not allow Planning staff to process applications for condominium conversions. She said the vacancy rate has been above 3% the past few years until the end of 2005 when it fell below 3%. She said staff is recommending that the 3% requirement be removed and that the code allow conversion of up to 300 units per year. Ms. Ryan provided history of the vacancy rate in Sunnyvale indicating that there have only been two periods of time when the vacancy rate was above 3%. Comm. Klein and staff further discussed vacancy rates, availability of ownership and rental units, annual measuring of vacancy rates, a higher level of affordability on the conversions, and the Below Market Rate (BMR) housing and how that is being applied to condo conversions. Ms. Ryan said a couple of years ago the entire affordable housing program was reviewed very thoroughly and at that time BMR units became a requirement for condominium developments. She said that most of the neighboring communities handle BMR housing differently and that Sunnyvale is in a little bit of leadership role in this area.

Comm. Sulser asked how much staff work goes into calculating the vacancy rate report. Ms. Ryan said a lot of staff time is spent tracking the vacancy rate attempting to collect data on at least half of the apartment complexes, or 14-15,000 units. She said she does not know the exact hours. Ms. Ryan said it can take several weeks on the phone to gather the information. She said if this report was only done once a year rather than twice it would save time. Comm. Sulser asked what our neighboring Cities are doing regarding condominium conversions. Ms. Ryan said each community varies, but most have some type of

control on condominium conversions based on either number or percentage of units. She said there are a lot of tenant protection issues addressed. Ms. McLeod said if there is concern about the vacancy rate that options would be to make a change to it or remove it all together. Ms. Ryan said Sunnyvale has collected vacancy rate information over a 25-year period and our rate has stayed near 3%.

Comm. Simons asked if Sunnyvale has any particular source for development tools. Ms. Ryan said that staff is making a series of recommendations this evening, regarding policy, tools and amendments to the zoning code. She said there are some "incentives" in the tools, but the incentives are actually more of encouragements for developments. Ms. Ryan said that Alternatives 1.C.i.-viii provides amendments to the code to make it easier to encourage development of the homeownership types of housing and that 1.C.xi deals with condominium conversions. Comm. Simons asked where additional "incentives" might be added. Ms. Ryan said all of the tools in the report have some type of incentive behind them. Comm. Simons expressed that he would like to see these provided somewhere other than the staff report. Staff said a handout could be created for information purposes. Ms. Ryan said after any changes are made from the study that these tools will be a small part of what a developer needs to know to develop a property. Ms. Ryan said that the Commission, as policy makers, are more concerned with the background in the staff report. Comm. Simons and staff further discussed possible ways of providing information about these changes to the public and developers.

Comm. Klein and staff discussed "ownership" versus "owner occupied." Comm. Klein confirmed with staff that the proposed new policy is to strive to achieve an equal balance of owner occupied and rental units in the community and that figures regarding ownership were gathered from the 2000 census.

Comm. Babcock referred to page 34 and 35 of the report and discussed with staff for which items under the Alternatives refer to townhomes determining that item 1.C.iv refers to townhomes in R-3 zoning districts. Staff said that townhomes in R-2 zoning districts can be a maximum of 30 feet in height. Ms. Ryan said 1.C.v.2 and 1.C.v.4 both refer to townhomes. Ms. McLeod referred to Attachment I, page 4 and said the table would help clarify what refers to townhomes. Ms. Ryan referred to Attachment I, page 5 and said that staff will clarify the information regarding increase in heights. Ms. McLeod referred to Attachment I, page 7 and said that the tandem parking refers to single-family dwellings or townhomes.

Chair Hungerford referred to page 34, Alternative 1.C.iv regarding height limits and asked if it is possible that a three-story townhome could end up next to a single-family home without any Planning Commission review. Ms. Ryan said that anything with three or more units requires a public hearing. She said three units would be a townhome. She said three or four units may not be heard by

the Planning Commission, but would have to be heard at an Administrative Hearing and the public would be noticed. Chair Hungerford and staff further discussed height limits of housing and possible modifications to the Alternatives if the Commission does not care for the possibility of a three-story townhome going in next to a single-family home. Chair Hungerford referred to 1.C.iii. regarding the reduction of interior setbacks that says "the minimum front yard setback of 12 feet on private drives or private streets." He asked if this is an incentive and is it proper. Ms. Ryan explained that this item was added as it reflects some of the approvals that staff has seen allowed on private drives and explained the reasoning for including it in the alternatives.

Comm. Simons asked for clarification at public hearing requirements and developments with three or more units. Ms. Ryan confirmed that every development of three or more units requires a use permit and a public hearing.

Chair Hungerford opened the public hearing.

Sam Arthur, owner of a three unit project on Poplar Avenue stated that he may eventually convert to them to condominiums. He said he came to speak in support of the removal of vacancy restriction and change to 300 units per year maximum of conversions. He said that ownership encourages people to take care of their property and that he feels that most of the condominiums that are being converted will be owner occupied due to the high cost of purchasing the condominium.

Brian Wong, owner of a 4-plex in Sunnyvale, spoke in support of the change in the rules on condominium conversion and said he agrees with Mr. Arthur. He said of the 4 units he owns, only one is a rental. He said he is in support of the more flexible rule on the conversions.

Chair Hungerford closed the public hearing.

Comm. Simons made a recommendation that the Commission go through all of Alternative 1, piece by piece and at the end make a motion on all of the items together.

Rebecca Moon, Assistant City Attorney, said the Commission could make a series of motions and vote on the motions at the end. Comm. Simons asked if there could be discussion regarding the motions during the process. Ms. Moon said that would be up to the Chair.

Ms. Ryan clarified that each part of Alternative 1 would be addressed with individual "straw motions" on each item to craft the larger motion. Chair Hungerford said that this process along with discussion was acceptable to him.

Comm. Simons went one by one through each item of Alternative 1 with Commissioners providing input on items that required modification. The outcome of the process resulted in the following motion with modifications indicated by italics:

Final Action:

Comm. Simons made a motion on 2005-0167 to propose policy, tools and Title 19 amendments as follows:

1. This Alternative contains 3 parts (policy, tools and Title 19 amendments):

- A. Adopt attached policy (Attachment K) to “strive to achieve an equal balance of *owner-occupied units and renter-occupied units* in the community,” which should be incorporated into the Land Use and Transportation Element of the General Plan in its next revision;
- B. Approve of staff preparation of user friendly tools for property owners considering conversions (Tool: listed as item “cc” in the body of the report in one of the table of alternatives.); and,
- C. Introduce the attached Ordinance (Attachment I) amending Title 19 of the Municipal Code to make the following modifications (which implement, in some form, 15 of the 45 tools):
 - i. Eliminate **minimum lot size and minimum lot width** in multi-family zoning districts provided overall density is consistent with the zoning district. (Tools: b. c. h. i.)
 - ii. Eliminate requirement for **lot frontage on a public street** provided the subdivision has public street frontage and the private drive or private streets are designated on subdivision map and front on a public street. (Tools: d. j.)
 - iii. Reduce interior setbacks for single-family detached and townhome style developments: (Tool: f.)
 - 1. minimum **front yard setback** of 12 feet on private drives or private streets
 - 2. minimum interior **side yard setback** of 4 feet with a total interior side yard of 10 feet
 - iv. Increase the **height limit** of townhome developments in the R-3 zoning district to 3 stories and 35 feet. (Tool: k.)
 - v. Modify the R-2 and R-3 zoning districts **height limit** adjacent to single-story single-family homes and, regardless of the height of the adjacent structure, allow up to *30 feet height (2-stories) within 75 feet of the property line*: (Tool: l.)

1. *[removed and incorporated in v.]*
2. *[removed]*
3. *[removed and incorporated in v.]*
4. *[removed]*
- vi. Eliminate porches from calculation of **Floor Area Ratio** for residential development. (Tool: e.)
- vii. Allow the **lockable storage** requirement to be met by providing a two-car garage. (Tool: m.)
- viii. *[removed]*
- ix. Remove the **vacancy restriction** for condominium conversions provided:
 1. *No more than 175 units per 12-month period may be converted* (Tool: ee.)
 2. *A conversion may be approved in excess of 175 units in a year upon a Finding the "the conversion will not adversely impact the community's ability to provide housing for all economic segments of the community and will consider the annual vacancy rate in making the Finding."* (Tool: hh.)
 3. Increase the BMR requirement to 15% and require conversion of 5 or more units to provide Below Market Rate Units. (Tool: ff.)
 4. *Vacancy rate data is collected at least once per year.*

Comm. Babcock seconded.

Motion carried unanimously, 5-0, Vice Chair Fussell absent.

This item is to be heard by City Council on May 9, 2006.